

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

Jeffrey E. Meinzer,

Complainant,
vs.

ORDER OF DISMISSAL

Greg Jasicki,

Respondent.

On October 19, 2006, Jeffrey Meinzer filed a Complaint with the Office of Administrative Hearings alleging a violation of Minn. Stat. § 211B.02 by Greg Jasicki. Mr. Jasicki is a candidate for the Brooklyn Park City Council (Central District). The Chief Administrative Law Judge assigned this matter to the undersigned Administrative Law Judge on October 19, 2006, pursuant to Minn. Stat. § 211B.33. A copy of the Complaint and attachments were sent by United States mail to the Respondent on October 19, 2006.

After reviewing the Complaint and attachments, the Administrative Law Judge finds that the Complaint does not state a prima facie violation of Minn. Stat. § 211B.02.

Based upon the Complaint and the supporting filings and for the reasons set out in the attached Memorandum,

IT IS ORDERED:

That the Complaint filed by Jeffrey E. Meinzer against Greg Jasicki is DISMISSED.

Dated: October 20, 2006

/s/ Beverly Jones Heydinger
BEVERLY JONES HEYDINGER
Administrative Law Judge

NOTICE

Under Minn. Stat. § 211B.36, subd. 5 this order is the final decision in this matter and a party aggrieved by this decision may seek judicial review as provided in Minn. Stat. § § 14.63 to 14.69.

MEMORANDUM

The Complaint alleges that campaign material, in the form of two 8.5" x 11" pages prepared by Jasicki for Council, violated Minn. Stat. § 211B.02, by falsely implying support or endorsement of the Brooklyn Park Fire Department and unauthorized use of its logo. One page of the campaign material shows a photograph of Mr. Jasicki in fire fighting attire which does not show the name of any fire department. In the middle of the page is a logo which reads: "Brooklyn Park Fire Department." The campaign material describes Mr. Jasicki as a 14 year Brooklyn Park Firefighter and former President of the Brooklyn Park Fire Relief Association. The other page shows a photograph of Mr. Jasicki and includes endorsements from three people.

Minn. Stat. § 211B.02 provides as follows:

211B.02 False Claim of Support.

A person or candidate may not knowingly make, directly or indirectly, a false claim stating or implying that a candidate or ballot question has the support or endorsement of a major political party or party unit or of an organization. A person or candidate may not state in written campaign material that the candidate or ballot question has the support or endorsement of an individual without first getting written permission from the individual to do so.

The first sentence of this statute prohibits a candidate from falsely stating or implying that he has the endorsement or support of an organization. The question presented is whether simply printing a fire department's logo on campaign material creates an implication of support by the fire department that is sufficient to show a violation of section 211B.02. Minn. Stat. § 211B.02 is a criminal statute, violation of which is a misdemeanor.¹ Therefore, the rule of strict construction of penal statutes must be applied notwithstanding the civil nature of the proceedings before the Administrative Law Judge.²

There is no allegation that Mr. Jasicki was incorrectly identified as a Brooklyn Park Firefighter. Other than the presence of the logo, there is no suggestion in other images or written text in the campaign material that the Brooklyn Park Fire Department endorses or supports Mr. Jasicki. For a firefighter to include the logo, without anything more, is insufficient to imply that

¹ Minn. Stat. § 211B.19 provides that a violation of chapter 211B for which no other penalty is provided is a misdemeanor.

² *In the Matter of the Contest of General Election [Graves v. Meland]*, 264 N.W.2d 401, 403 (Minn. 1978).

Mr. Jasicki has the endorsement or support of the Brooklyn Park Fire Department. Because the Jasicki campaign material did not state or imply that the Brooklyn Park Fire Department supports or endorses Mr. Jasicki, the Complaint fails to identify a prima facie violation of Minnesota Chapter 211B.02 and therefore is dismissed.

The Complaint also alleges unauthorized use of the logo. The Office of Administrative Hearings has no jurisdiction over allegations of unauthorized use of a fire department's logo.

B.J.H.